In the High Court of Uttaranchal at Nainaital.

Criminal Revision No. 606 of 2001
(Old No. 1418/1988)

Gulam Hussain S/o Sri Bahadur
R/o Village and Post Office Darhyal
P.S. Tanda Distrioct Rampur .....Revisionist.

Vs.

State of U.P. .....Respondent.

Sri Dharam Veer , learned counsel for the revisionist.
Sri A. Rab, Additional Govt. Advocate for the state-respondent.
Date of judgment: 26.3.2004.

Hon'ble Irshad Hussain, J.

This is a criminal revision against the judgment and order dated 30-8-1988 passed by the I Additional Sessions Judge, Nainital in criminal appeal No. 5 of 1987. The said appeal was filed against the judgment dated 17-12-1986 passed by the then Special Judicial Magistrate, Kashipur, whereby the revisionist was convicted and sentenced to undergo R.I. for six months and also to pay fine of Rs. 1000/- under section 7/16 of the Prevention of Food Adulteration Act, 1954 . In appeal the conviction was maintained. Aggrieved by the appellate judgment this revision is preferred.

The learned counsel for the revisionist has mainly confined his argument to the quantum of sentence by referring to the peculiar circumstances of the case and contending that the revisionist had been in agony and pain on account of the pending prosecution for a very long period of more than 18 years. In this case the sample of milk was taken on 3-6-1985 and against the conviction this revision has come up for hearing after more than 18 years. The learned counsel argued that the revisionist is not reported to have been involved in any criminal activity since the date of the taking of the sample and in the totality of

the circumstances of the case and particularly when the revisionist had been denied of his right of speedy trial and justice suitable reduction in the sentence awarded to the revisionist may be made.

The submission of the learned counsel for the revisionist has been contested by the learned Additional Government Advocate for the respondent-state on the ground that the offence of adulteration is a social crime.

In suitable cases where the Constitutional mandate of speedy trial and justice has been found to be violated the courts have been taking lenient view and even if minimum sentence prescribed for an offence the same has been reduced suitably keeping in view the circumstances of a particular case and to meet the ends of justice. Reference in this regard can be made to the decision of the Hon'ble Supreme Court in the matter of **Municipal Corporation of Delhi Vs. Tek Chand Bhatia; A.I.R. 1980 Supreme Court, 360.** Considering this aspect of the matter and the fact that more than 18 years from the date of taking of the sample of milk have passed and the revisionist is not reported to have indulged in any criminal activity, the sentence of imprisonment may be reduced to the period of sentence already undergone but at the same time to enhance the fine to Rs. 2000/- instead of Rs. 1000/- imposed by the Judicial Magistrate.

For the reasons aforesaid the revision is partly allowed. The conviction of the revisionist under section 7/16 of the Prevention of Food Adulteration Act, 1956 is maintained. However the sentence of imprisonment of a period of six months is reduced to the sentence of imprisonment already undergone and to pay a fine of Rs. 2000/- (Rs. Two thousand) for the said offence. In default of payment of fine he shall suffer R.I. for 6(six) months.

Let the record be sent back to the learned Magistrate for compliance. Compliance report be submitted within one month.

(Irshad Hussain, J.)

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